



General Assembly

Substitute Bill No. 5045

February Session, 2004

* _____HB05045FIN____041504_____*

AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this section
2 and section 4 of this act, "floodplain" means that area of a municipality
3 located within the real or theoretical limits of the base flood or base
4 flood for a critical activity, as determined by the municipality or the
5 Federal Emergency Management Agency in its flood insurance study
6 or flood insurance rate map for the municipality prepared pursuant to
7 the National Flood Insurance Program, 44 CFR Part 59 et seq.

8 (b) Whenever a municipality, pursuant to the National Flood
9 Insurance Program, 44 CFR Part 59 et seq., is required to revise its
10 zoning regulations or any other ordinances regulating a proposed
11 building, structure, development or use located in a floodplain, the
12 revision shall provide for restrictions for flood storage and conveyance
13 of water for floodplains that are not tidally influenced as follows:

14 (1) Within a designated floodplain, encroachments resulting from
15 fill, new construction or substantial improvements, as defined in 44
16 CFR Part 59.1, involving an increase in footprint to the structure shall
17 be prohibited unless the applicant provides to the zoning commission

18 certification by a state licensed engineer that such encroachment shall
19 not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced
21 by any form of development unless such reduction (A) is compensated
22 for by deepening or widening the floodplain, (B) is on-site, or if
23 adjacent property owners grant easements or the municipality in
24 which the development is located authorizes off-site reduction, (C) is
25 within the same hydraulic reach and a volume not previously used for
26 flood storage, (D) is hydraulically comparable and incrementally equal
27 to the theoretical volume of flood water at each elevation, up to and
28 including the hundred year flood elevation, which would be displaced
29 by the proposed project, and (E) has an unrestricted hydraulic
30 connection to the same waterway or water body; and

31 (3) Work within adjacent land subject to flooding, including work to
32 provide compensatory storage, shall not restrict flows resulting in
33 increased flood stage or velocity. Any compensatory storage may be
34 provided off-site if authorized by the municipality.

35 (c) Notwithstanding the provisions of subsection (b) of this section,
36 a municipality may adopt more stringent restrictions for flood storage
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes, as amended by section
39 10 of public act 03-4 of the June 30 special session, is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2004*):

41 (a) The secretary, after consultation with all appropriate state,
42 regional and local agencies and other appropriate persons shall prior
43 to March 1, 2003, complete a revision of the existing plan and enlarge it
44 to include, but not be limited to, policies relating to transportation,
45 energy and air. Any revision made after May 15, 1991, shall identify
46 the major transportation proposals, including proposals for mass
47 transit, contained in the master transportation plan prepared pursuant
48 to section 13b-15. Any revision made after July 1, 1995, shall take into
49 consideration the conservation and development of greenways that

50 have been designated by municipalities and shall recommend that
51 state agencies coordinate their efforts to support the development of a
52 state-wide greenways system. The Commissioner of Environmental
53 Protection shall identify state-owned land for inclusion in the plan as
54 potential components of a state greenways system.

55 (b) Any revision made after August 20, 2003, shall take into account
56 (1) economic and community development needs and patterns of
57 commerce, and (2) linkages of affordable housing objectives and land
58 use objectives with transportation systems.

59 (c) Any revision made after March 1, 2006, shall (1) take into
60 consideration risks associated with natural hazards, including, but not
61 limited to, flooding, high winds and wildfires; (2) identify the potential
62 impacts of natural hazards on infrastructure and property; and (3)
63 make recommendations for the siting of future infrastructure and
64 property development to minimize the use of areas prone to natural
65 hazards, including, but not limited to, flooding, high winds and
66 wildfires.

67 [(b)] (d) Thereafter on or before March first in each revision year the
68 secretary shall complete a revision of the plan of conservation and
69 development.

70 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the
71 general statutes is repealed and the following is substituted in lieu
72 thereof (*Effective October 1, 2004*):

73 (4) "Local capital improvement project" means a municipal capital
74 expenditure project for any of the following purposes: (A) Road
75 construction, renovation, repair or resurfacing, (B) sidewalk and
76 pavement improvements, (C) construction, renovation, enlargement or
77 repair of sewage treatment plants and sanitary or storm, water or
78 sewer lines, including separation of lines, (D) public building
79 construction other than schools, including renovation, repair, code
80 compliance, energy conservation and fire safety projects, (E)
81 construction, renovation, enlargement or repair of dams, bridges and

82 flood control projects, (F) construction, renovation, enlargement or
83 repair of water treatment or filtration plants and water mains, (G)
84 construction, renovation or enlargement of solid waste facilities, (H)
85 improvements to public parks, (I) the preparation and revision of local
86 capital improvement plans projected for a period of not less than five
87 years and so prepared as to show the general description, need and
88 estimated cost of each individual capital improvement, (J)
89 improvements to emergency communications systems, (K) public
90 housing projects, including renovations and improvements and energy
91 conservation and the development of additional housing, (L)
92 renovations to or construction of veterans' memorial monuments, (M)
93 thermal imaging systems, (N) bulky waste and landfill projects, (O) the
94 preparation and revision of municipal plans of conservation and
95 development adopted pursuant to section 8-23, provided such plans
96 are endorsed by the legislative body of the municipality not more than
97 one hundred eighty days after adoption by the commission, [and] (P)
98 acquisition of automatic external defibrillators, and (Q) floodplain
99 management and hazard mitigation activities. "Local capital
100 improvement project" means only capital expenditures and includes
101 repairs incident to reconstruction and renovation but does not include
102 ordinary repairs and maintenance of an ongoing nature and
103 "floodplain management" and "hazard mitigation" shall have the same
104 meaning as in section 8 of this act.

105 Sec. 4. (NEW) (*Effective October 1, 2004*) The Commissioner of
106 Environmental Protection shall develop guidelines to be used by
107 municipalities in revising ordinances restricting flood storage and
108 conveyance of water for floodplains, as defined in section 1 of this act,
109 that are not tidally influenced. Such guidelines shall include, but not be
110 limited to, a model ordinance that may be used by municipalities to
111 comply with the provisions of section 1 of this act. The commissioner
112 shall make the guidelines available to the public.

113 Sec. 5. Subsection (d) of section 20-327b of the general statutes, as
114 amended by section 146 of public act 03-6 of the June 30 special
115 session, is repealed and the following is substituted in lieu thereof

116 (Effective October 1, 2004):

117 (d) (1) The Commissioner of Agriculture and Consumer Protection,
118 shall, by regulations adopted in accordance with the provisions of
119 chapter 54, prescribe the form of the written residential disclosure
120 report required by this section and sections 20-327c to 20-327e,
121 inclusive. The regulations shall provide that the form include
122 information concerning municipal assessments, including, but not
123 limited to, sewer or water charges applicable to the property. Such
124 information shall include: (i) Whether such assessment is in effect and
125 the amount of the assessment; (ii) whether there is an assessment on
126 the property that has not been paid, and if so, the amount of the
127 unpaid assessment; and (iii) to the extent of the seller's knowledge,
128 whether there is reason to believe that the municipality may impose an
129 assessment in the future.

130 (2) Such form of the written residential disclosure report shall
131 contain the following:

132 (A) A certification by the seller in the following form:

133 "To the extent of the seller's knowledge as a property owner, the
134 seller acknowledges that the information contained above is true and
135 accurate for those areas of the property listed. In the event a real estate
136 broker or salesperson is utilized, the seller authorizes the brokers or
137 salespersons to provide the above information to prospective buyers,
138 selling agents or buyers' agents.

T1 (Date) (Seller)
T2 (Date) (Seller)"

139 (B) A certification by the buyer in the following form:

140 "The buyer is urged to carefully inspect the property and, if desired,
141 to have the property inspected by an expert. The buyer understands

142 that there are areas of the property for which the seller has no
143 knowledge and that this disclosure statement does not encompass
144 those areas. The buyer also acknowledges that the buyer has read and
145 received a signed copy of this statement from the seller or seller's
146 agent.

T3 (Date) (Seller)
T4 (Date) (Seller)"

147 (C) A statement concerning the responsibility of real estate brokers
148 in the following form:

149 "This report in no way relieves a real estate broker of the broker's
150 obligation under the provisions of section 20-328-5a of the Regulations
151 of Connecticut State Agencies to disclose any material facts. Failure to
152 do so could result in punitive action taken against the broker, such as
153 fines, suspension or revocation of license."

154 (D) A statement that any representations made by the seller on the
155 written residential disclosure report shall not constitute a warranty to
156 the buyer.

157 (E) A statement that the written residential disclosure report is not a
158 substitute for inspections, tests and other methods of determining the
159 physical condition of property.

160 (F) Information concerning environmental matters such as lead,
161 radon, subsurface sewage disposal, flood hazards and such other
162 topics as the Commissioner of Agriculture and Consumer Protection
163 may determine would be of interest to a buyer.

164 (G) A statement that information concerning the residence address
165 of a person convicted of a crime may be available from law
166 enforcement agencies or the Department of Public Safety and that the
167 Department of Public Safety maintains a site on the Internet listing

168 information about the residence address of persons required to register
169 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

170 Sec. 6. Section 22a-27j of the general statutes, as amended by section
171 108 of public act 03-6 of the June 30 special session, is repealed and the
172 following is substituted in lieu thereof (*Effective July 1, 2004*):

173 (a) Any person, firm or corporation, other than a municipality,
174 making an application for any approval required by chapters 124, 126,
175 440 and 444 shall pay a fee of twenty dollars, in addition to any other
176 fee which may be required, to the municipal agency or legislative body
177 which is authorized to approve the application. On and after July 1,
178 2004, the fee shall be thirty dollars. Such municipal agency or
179 legislative body shall collect such fees, retaining [one dollar] two
180 dollars of such fee for administrative costs, and shall pay the
181 remainder of such fees quarterly to the Department of Environmental
182 Protection and the receipts shall be deposited into an account of the
183 State Treasurer and credited to the Environmental Quality Fund
184 established pursuant to section 22a-27g. The portion of such fund
185 attributable to the fees established by this section shall be used by the
186 Department of Environmental Protection as follows: (1) Nineteen
187 dollars shall be used for the purpose of funding the environmental
188 review teams program of the Bureau of Water Management within
189 said department, the Council on Soil and Water Conservation
190 established pursuant to section 22a-315 and the eight county soil and
191 water conservation districts, and (2) nine dollars shall be deposited
192 into the hazard mitigation and floodplain management account
193 established pursuant to section 7 of this act and used for grants under
194 section 9 of this act.

195 (b) Not later than three months following the close of each fiscal
196 year starting with fiscal year July 1, 2000, the Department of
197 Environmental Protection shall identify those municipalities that are
198 not in compliance with subsection (a) of this section for the previous
199 fiscal year and shall provide the Office of Policy and Management with
200 a list of such municipalities. The list shall be submitted annually and in

201 such manner as the Office of Policy and Management may require. The
202 Office of Policy and Management, when issuing the first payment from
203 the Mashantucket Pequot and Mohegan Fund established pursuant to
204 section 3-55i, in the fiscal year during which said list is received, shall
205 reduce said payment to a municipality by [five hundred] one thousand
206 dollars for each quarter of the preceding fiscal year that the
207 municipality has not been in compliance with subsection (a) of this
208 section to a maximum of [two] four thousand dollars in each fiscal
209 year. The Office of Policy and Management shall certify to the State
210 Comptroller the amount of any funds withheld under this subsection
211 to be transferred to the Environmental Quality Fund for the uses set
212 forth in subsection (a) of this section, and the State Comptroller shall
213 cause said amount to be transferred to such fund.

214 Sec. 7. (NEW) (*Effective July 1, 2004*) There is established an account
215 to be known as the "hazard mitigation and floodplain management
216 account". The hazard mitigation and floodplain management account
217 shall be an account of the Environmental Quality Fund established
218 under section 22a-27g of the general statutes. Notwithstanding any
219 provision of the general statutes, any moneys required by law to be
220 deposited in the account shall be deposited in the Environmental
221 Quality Fund and credited to the hazard mitigation and floodplain
222 management account. Any balance remaining in the account at the end
223 of any fiscal year shall be carried forward in the account for the fiscal
224 year next succeeding. The account shall be available to the
225 Commissioner of Environmental Protection for the purposes of
226 sections 8 to 12, inclusive, of this act.

227 Sec. 8. (NEW) (*Effective July 1, 2004*) As used in sections 9 to 12,
228 inclusive, of this act:

229 (1) "Eligible applicant" means any municipality, regional planning
230 agency organized under the provisions of chapter 127 of the general
231 statutes, any regional council of elected officials organized under the
232 provisions of chapter 50 of the general statutes, or any regional council
233 of government organized under the provisions of sections 4-124i to 4-

234 124p, inclusive, of the general statutes;

235 (2) "Hazard mitigation" means activities that include, but are not
236 limited to, actions taken to reduce or eliminate long-term risk to
237 human life, infrastructure and property resulting from natural hazards
238 including, but not limited to, flooding, high winds and wildfires; and

239 (3) "Floodplain management" means activities that include, but are
240 not limited to, actions taken to retain the existing capacity of
241 designated floodplain areas to store and convey flood waters.

242 Sec. 9. (NEW) (*Effective July 1, 2004*) (a) The Commissioner of
243 Environmental Protection shall establish and administer a hazard
244 mitigation and floodplain management grant program to reimburse
245 eligible applicants for costs incurred in the reduction or elimination of
246 long-term risks to human life, infrastructure and property from natural
247 hazards, including, but not limited to, flooding, high winds and
248 wildfires, and in the retention of present capacity of designated
249 floodplain areas to store and convey flood waters. Each grant shall be
250 in an amount equal to ninety per cent of the costs to be incurred for
251 such activities. Application for a grant shall be made in writing to the
252 commissioner in such form as the commissioner may prescribe and
253 shall include a description of the purpose, objectives and budget of the
254 activities to be funded by the grant. If the applicant is a municipality,
255 the chief executive officer of the municipality applying for the grant
256 may designate the town planner, the director of public works, the
257 police chief, the fire chief or the emergency management director of
258 such municipality as the agent to make the application.

259 (b) The Commissioner of Environmental Protection shall establish,
260 by regulations adopted in accordance with chapter 54 of the general
261 statutes, relative priorities for the approval of grants under this section.
262 Such priorities may take into account the differing needs of eligible
263 applicants, the need for consistency and equity in the distribution of
264 grant awards and the extent to which particular projects may advance
265 the purposes of this section. The commissioner shall accord highest

266 priority to projects which involve (1) the preparation or revision of
267 hazard mitigation plans by municipalities, or (2) participation in the
268 community rating system of the National Flood Insurance Program.
269 The commissioner shall accord secondary priority to projects which
270 involve (A) the execution of hazard mitigation projects by
271 municipalities in accordance with approved hazard mitigation plans;
272 or (B) administering and providing financial assistance for the hazard
273 mitigation and floodplain management grant program established
274 under this section. The commissioner may establish further criteria for
275 the approval of grants under this section. Not later than February 1,
276 2005, the commissioner shall develop and disseminate a pamphlet that
277 describes the evaluation process for grant applications under this
278 section. In awarding grants under this section, the commissioner shall
279 consult with any person the commissioner deems necessary.

280 (c) The commissioner shall authorize grant awards under this
281 section on or before July thirty-first and December thirty-first of each
282 fiscal year in which payment of a grant is to be made.

283 (d) The commissioner shall allocate not less than sixty per cent of
284 the moneys in the hazard mitigation and floodplain management
285 account in any fiscal year for grants under this section.

286 Sec. 10. (NEW) (*Effective October 1, 2004*) (a) On and after July 1,
287 2005, the Commissioner of Environmental Protection shall make grants
288 to municipalities under section 9 of this act, from funds in the hazard
289 mitigation and floodplain management account, established under
290 section 7 of this act.

291 (b) If the commissioner finds that any grant awarded pursuant to
292 this section is being used for other purposes or to supplant a previous
293 source of funds, the commissioner may require repayment.

294 Sec. 11. (NEW) (*Effective October 1, 2004*) (a) Recipients of grants
295 under section 9 of this act shall submit a report to the Commissioner of
296 Environmental Protection, in such form as the commissioner
297 prescribes, not later than September first of the fiscal year following

298 the fiscal year such grant was received. Such report shall contain a
 299 description of activities paid for with financial assistance under the
 300 grant. The chief executive officer of a municipality that receives a grant
 301 may designate the town planner, the director of public works, the
 302 police chief, the fire chief or the emergency management director of
 303 such municipality as the agent to make such report.

304 (b) On or before January 1, 2007, and annually thereafter, the
 305 Commissioner of Environmental Protection shall prepare a report on
 306 grants made under section 9 of this act for the preceding fiscal year.
 307 Each such report shall include: (1) A description of the grants made,
 308 including the amount, purposes and the municipalities to which they
 309 were made; and (2) any findings or recommendations concerning the
 310 operation and effectiveness of the grant program.

311 Sec. 12. (NEW) (*Effective July 1, 2004*) The Commissioner of
 312 Environmental Protection shall adopt regulations, in accordance with
 313 the provisions of chapter 54 of the general statutes, to implement the
 314 provisions of sections 8 to 11, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>July 1, 2004</i>

PD

Joint Favorable Subst. C/R

ENV

ENV *Joint Favorable Subst.-LCO*

APP *Joint Favorable*

FIN *Joint Favorable*